

Remarks/Arguments

Applicant submits this Amendment and Response in response to the Office Action mailed August 11, 2005. Applicant also submits herewith a request for a three (3) month extension of time pursuant to 37 C.F.R. 1.136(a). A copy of the request is attached herewith.

In the Office Action, the Examiner rejected Claims 16-29 and 33-43. Claims 1-14, 32 and 44-46 were previously canceled, and claims 15, 30 and 31 were previously withdrawn. Claims 16-29 and 33-43 are currently pending in this application.

Objections

The Examiner objected to Claim 33 for informalities. Claim 33 is amended to correct these informalities. Specifically, Claim 33 was amended to read “greater than or equal to” (as opposed to “greater or equal to than”) and “relative to” (as opposed to simply “relative”). Thus, the amendment traverses the Examiner’s objections.

Rejections Under 35 U.S.C. § 102

The Examiner rejected independent Claims 16, 34 and 41 and dependent Claims 19, 22, 23, 26-29, 35-37, 42, and 43 under 35 U.S.C. § 102(b) as being anticipated by Hastings, Jr. 3,083,853. The Examiner argues that Hastings discloses a mast for forklift truck comprising a carriage assembly having “a front inner surface 116 and a lateral inner surface (middle portion) ... wherein each of the front inner surface and the lateral inner surface of respective first and second rails is about 92°.” (Aug. 11, 2005 Office Action at 2.) Applicant respectfully submits that the Examiner’s reliance on Hastings is mistaken. Claims 16, 34 and 41 of the instant invention describe an angle defined by the front inner surface and the lateral inner surface (Claim 16), and by the first front inner surface and

the first front portion of the first lateral inner surface (Claims 34 and 41). These angles are defined by the relative positions of two surfaces in the x or horizontal direction. Unlike the instant invention, Hastings discloses an angle between the inclined plane 116 and the floor line, which is an angle defined by the relative positions of two surfaces in y or vertical direction. *See* Hastings at Figs. 6-9. Thus, Hastings does not disclose all of the limitations of Claims 16, 34 and 41, as it does not disclose having an angle between the front inner surface and the lateral inner surface as defined by these claims. Therefore, Applicant submits that this argument traverses the Examiner's rejection of these Claims, as well as Claims 19, 22, 23, 26-29, 35-37, 42, and 43 which are dependent on Claims 16, 34 and 41.

The Examiner rejected independent Claim 34 and dependent Claims 37 and 38 under 35 U.S.C. §102(b) as being anticipated by JP 5-70092A. Independent Claim 16 is amended to include a front surface and to describe the first back inner surface of the first as being substantially parallel to the front surface. Unlike the instant invention, JP 5-70092A does not disclose or suggest a straight back inner surface. (*See* surfaces indicated 5B and 7 in Office Action at 4.) Thus, the amendment traverses the Examiner's rejection of Claim 34 based on JP 5-70092A, as well as Claims 37 and 38 which are dependent on 34.

Rejections Under 35 U.S.C. § 103

The Examiner rejected independent Claim 33 under 35 U.S.C. § 103(a) as being obvious over JP 5-70092A in view of Kelly Re. 30,815. The Examiner argued that JP 5-70092A discloses all of the limitations of Claim 33 with the exception of a multi-stage mast. Independent Claim 33 is amended to describe the back inner surface of the first as

being substantially parallel to the front surface. Unlike the instant invention, JP 5-70092A does not disclose or suggest a straight back inner surface (*see* surfaces indicated 5B and 7 in Office Action at 4), and therefore, does not disclose the asserted limitations. Thus, Applicant submits that this argument traverses the Examiner's obviousness rejection of Claim 34. Because Applicant has traversed the Examiner's reliance on JP 5-70092A, the Examiner's reliance on Kelly is rendered moot. Should the Examiner not withdraw this rejection, then the Applicant will address his reliance on Kelly.

Lastly, the Examiner rejected dependent Claims 17, 18, 20, 21, 24, 25, and 38-40 under 35 U.S.C. § 103(a) as being obvious over Hastings, Jr. 3,083,853 in view of Yarris 4,035,040. The rejected claims are dependent upon independent Claims 16, 34 and 41. The Examiner argued that Hastings discloses all of the claim limitations with the exception of "having a first and second upper rollers respectively having an angle relative to the front surface of about 92.5° to about 93.5°." Applicant respectfully submits that the Examiner's reliance on Hastings is mistaken. As discussed above with respect the Examiner's rejection of independent Claims 16, 34 and 41 under 35 U.S.C. § 102, the independent Claims from which the rejected Claims are dependent describe an angle defined by the relative positions of two surfaces in the *x* or horizontal direction. Thus, the rejected dependent Claims possess this same limitation. In this regard, Applicant incorporates by reference its arguments made above with respect the Examiner's rejection of independent Claims 16, 34 and 41. On the other hand, Hastings merely discloses an angle defined by the relative positions of two surfaces in *y* or vertical direction. *See* Hastings at Figs. 6-9. As Hastings does not disclose the asserted limitations, Applicant submits that this argument traverses the Examiner's rejection of

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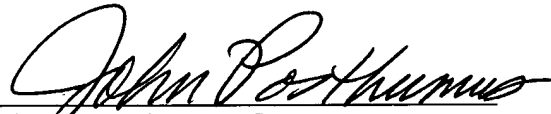
Claims 17, 18, 20, 21, 24, 25, and 38-40 under 35 U.S.C. § 103(a). Because Applicant has traversed the Examiner's reliance on Hastings, the Examiner's reliance on Yarris is rendered moot. Should the Examiner not withdraw this rejection, then the Applicant will address his reliance on Yarris.

It is thus believed that the present Amendment addresses each of the rejections issued by the Examiner in the present Office action and places the claims in condition for allowance. In conjunction with this belief, Applicant respectfully submits that all of the pending claims after this Amendment are allowable and Applicant respectfully requests a Notice of Allowability be issued in this case.

If the Examiner has any questions or comments, he is invited to contact Applicant's undersigned representative at the telephone number indicated below. If the payment included with this Amendment (or lack thereof) is insufficient or an overpayment of the fees due, please make up the insufficiency or credit Deposit Account No. 502775 as applicable. This is NOT an authorization to withdraw any issue fee from the Deposit Account.

Respectfully submitted this 13th day of February, 2006.

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